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OFFICE OF PETITIONS

Applicant: Zettler et al.

Appl. No.: 09/998,446

Filing Date: November 30, 2002

Title: METHOD FOR MEASURING CHARACTERISTICS, ESPECIALLY THE TEMPERATURE OF A MULTI-LAYER MATERIAL WHILE THE LAYERS ARE BEING BUILT UP

Attorney Docket No.: 101215-75

Pub. No.: US 2002/0113971 A1

Pub. Date: August 22, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on October 22, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the Assignee's name "LayTec Gesellschaft fur in-situ und nano-Sensorik mbH" is misspelled as "LayTec Gesellschaft fur in-situ und nano-Sensork mbH".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**¹

The request for corrected publication received on October 22, 2003, was not timely filed under 37 CFR 1.221(b).

If the corrected publication request was timely filed, the error in the Assignee name on the first page of the publication would not have been considered a material error, as required by 37 CFR 1.221(b). The instant request identifies a minor typographical error in the Assignee name wherein "Sensorik" is misprinted as "Sensork", which is not a material mistake because the technical disclosure and the claims are understandable. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant's request for a corrected patent application publication on October 22, 2003, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicant can find assignment information on the USPTO website at:
<http://assignments.uspto.gov/assignments/q?db=pat>

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PG PUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt
 Copy of Assignment information on the USPTO website.